

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHAD HOLDER

Plaintiff,

v.

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY**

Defendant.

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CIVIL ACTION NO. _____

JURY

**DEFENDANT STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Defendant State Farm Mutual Automobile Insurance Company ("State Farm"), incorrectly named as State Farm Mutual Insurance Company in Plaintiff's Original Petition, files this Notice of Removal, because diversity of citizenship jurisdiction exists under 28 U.S.C. § 1332.

PROCEDURAL BACKGROUND

1. Plaintiff Chad Holder filed this action on April 18, 2019 against State Farm in the 61st Judicial District Court of Harris County, Texas. The case was docketed under cause number 2019-25330 (the "State Court Action").
2. State Farm was served with citation and Plaintiff's Original Petition on April 30, 2019. The statutory deadline to remove this action under 28 U.S.C. § 1446(b)(1) is 30 days after Defendant's receipt of the initial pleading.

3. State Farm timely files this Notice of Removal pursuant to 28 U.S.C. § 1446 to remove the State Court Action from the 61st Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

4. State Farm filed its Original Answer in the State Court Action on May 28, 2019.

NATURE OF THE SUIT

5. This lawsuit involves a dispute over the handling and alleged denial of two insurance claims for property damage to two automobiles that Plaintiff represented occurred as a result of the flooding associated with Hurricane Harvey.¹ Plaintiff asserts a breach of contract claim against State Farm.²

BASIS FOR REMOVAL

6. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

A. Diversity of Parties

7. Removal is proper because there is and was complete diversity between the parties under 28 U.S.C. § 1332 both at the time of the filing of Plaintiff's Original Petition and at the time of its removal to this Court.

8. Plaintiff was, at the time of filing this lawsuit, and still is, a citizen of Harris County, Texas and resides in Harris County, Texas.

9. State Farm is an Illinois corporation licensed to issue insurance policies in the State of Texas. Pursuant to 28 U.S.C. §1332(c)(1), the citizenship of State Farm is

¹ *Exhibit B2*, Plaintiff's Original Petition, ¶ 5.

² *Id.* at ¶ 6.

determined by its state of incorporation and the location of its principal place of business. State Farm was incorporated in Illinois well before April 18, 2019, the date on which Plaintiff commenced the State Court Action. State Farm's principal place of business has been in Illinois on each and every day since and including April 18, 2019.

B. Amount in Controversy

10. Plaintiff's Original Petition expressly alleges actual damages in the amount of \$75,000.00, in addition to his demand for reasonable and necessary attorney's fees.³ Because Chapter 38 of the Texas Civil Practice and Remedies Code expressly provides for the recovery of attorney's fees in a claim for an oral or written contract,⁴ the "amount in controversy" requirement of 28 U.S.C. § 1332(a) is satisfied.

REMOVAL IS PROCEDURALLY CORRECT

11. This notice of removal is timely under 28 U.S.C. § 1446(b). State Farm was served with process on April 30, 2019.

12. Venue is proper in this division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

13. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon State Farm in the State Court Action are attached to this notice as Exhibit B.

14. Additionally, all documents required by Local Rule 81 to be filed with this Notice of Removal are attached and indexed in Exhibit A.

³ *Exhibit B2*, Plaintiff's Original Petition, ¶ 47.

⁴ CIV. PRAC. & REM. CODE § 38.001(8).

15. Pursuant to 28 U.S.C. 1446(d), written notice of the filing of this Notice of Removal will promptly be given to all parties and to the clerk of the 61st Judicial District Court of Harris County, Texas.

JURY DEMAND

16. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, State Farm respectfully demands a trial by jury.

PRAYER

Defendant respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. Defendant also requests any additional relief to which it may be entitled.

Respectfully submitted,

NISTICO, CROUCH & KESSLER, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was duly served upon counsel of record by U.S. Mail, certified return receipt requested, and electronic service on May 28, 2019, as follows:

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/s/ M. Micah Kessler
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